STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350
Internet Address: http://www.dps.state.ny.us

PUBLIC SERVICE COMMISSION

GARRY A. BROWN
Chairman
PATRICIA L. ACAMPORA
MAUREEN F. HARRIS
ROBERT E. CURRY JR.
JAMES L. LAROCCA
Commissioners

PETER McGOWAN
General Counsel

JACLYN A. BRILLING
Secretary

August 2, 2010

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 205554

Re: Commission's Rules Concerning Disruptions to Communications Should Apply to Broadband Internet Service Providers and Interconnected Voice over Internet Protocol Service Providers; ET Docket No. 04-35; WC Docket No. 05-271; GN Docket Nos. 09-47, 09-51, 09-137.

Dear Ms. Dortch:

The following comments are submitted on behalf of New York State Public Service Commission (NYPSC) pursuant to the Federal Communications Commission's (FCC) Public Notice seeking comments on extending outage reporting requirements to broadband internet service providers and interconnected voice over internet protocol (IP) service providers. The convergence of the public switched telephone network (PSTN), wireless and IP-based networks has produced today's modern, seamless, interconnected telecommunications network. Regardless of the platforms utilized, the NYPSC's core interests have not changed - maintaining high quality, reliable and secure communications infrastructure and services. As discussed in more detail below, the NYPSC supports the adoption of extending outage reporting requirements to IP-based providers, so long as this outage reporting is also delivered in real-time (i.e., simultaneously) to the states. In many instances, emergency personnel and others turn to the states first for information on network outages and, therefore, states need that information as soon as practicable. As for broadband internet service providers, we do not have the same need for this type of simultaneous reporting, but support the FCC in extending reporting requirements to these entities because interruptions to these applications may soon be just as critical to first responders as interruptions to the network infrastructures themselves.

PSTN and IP Networks

The NYPSC already has measures in place to respond to network problems over the PSTN. We have found that outages to one communications network can, and often does, have a cascading impact on other networks potentially affecting millions of end-users.[1] In certain instances we have observed outages at a single point of failure in an IP network at a centralized call processing facility or a damaged fiber cable that have had a more severe impact on customers than a similarly caused failure over the PSTN. Our experience in monitoring communications restoration following major storm or blackout events also raises concerns about the resiliency of broadband networks providing critical service to withstand the loss of commercial power. Unlike traditional copper networks, most broadband networks are reliant on customer-provided powering of equipment at the home and are heavily dependent on commercial powering of critical facilities in the field, much of which does not have battery back-up or portable generation capability. And while we understand IP networks are designed to provide dynamic routing of traffic to bypass network failures, we are unaware of the level on which critical circuits and components have geographic redundancy, a current requirement in New York for most traditional PSTN carriers. Because IP networks are increasingly providing communication service to customers, governments, financial institutions, other carriers, first responders and public safety entities, it is crucial that entities with network reliability responsibilities have access to IP network outage information on a real-time basis similar to PSTN outage information.

Outage Reporting Process

In the past, we have developed more focused and universally applicable outage reporting requirements by encouraging wireless and broadband providers to voluntarily participate in our outage reporting program. But, despite commitments to participate, the level of real-time and consistent reporting by non-PSTN carriers has been a disappointment. Without real-time access to critical network information, state regulators lack the ability to identify or anticipate potential service affecting situations or explain service outages to customers and other public interest entities for purposes of coordinating emergency response activities.

In New York carriers are requested to report outages related to physical and cyber incidents that affect the provider's network, facilities, services, or operations. Our outage reporting guidelines advise carriers to report: service problems affecting public access to 911, medical or emergency services and operator services; outages affecting major network node and/or telecommunications traffic concentration points (e.g., head-end, central office, toll office, network nodes); extensive network congestion or call blockage; and, any failure affecting 1,000

[1] Incidents of local exchange carrier cable facility damage, for example, have caused significant disruption to wireless backhaul trunks, resulting in service impairments and outages affecting wireless customers within and outside of the New York State's borders. Likewise, cable company equipment failures have disrupted phone service to hundreds of thousands of customers across wide ranges of the state.

or more subscribers; newsworthy outages or service problem affecting a public transportation terminal, hospital, national defense installation, large residential and commercial building or complex, or other major customer, such as a utility or other communications service provider. We believe these guidelines should apply equally to IP-based communications and will not be burdensome for carriers to provide on a uniform basis to the FCC and the states, simultaneously.

Many IP-based entities have expressed concern over keeping outage information submitted or collected confidential. New York has adequate protocols established to protect such information. In a recent FCC filing,[2] the NYPSC advocated for states' password protected access to FCC outage information in order to continue to ensure the health and safety of New Yorkers. We believe that an expansion of information sharing and gathering among carriers and federal, state and local authorities, which should include IP-based outage information, is needed to support emergency operations, and to increase situational awareness of communications networks. New categories of service providers should be required to report outages, and real-time state access to this information could be the most efficient and cost effective way for the industry, and state and federal regulators to accomplish our common network reliability interests.

Outage Reporting is Vital to Public Safety

Regardless of the existing regulatory void, when major incidents occur, state and local first responders expect that the NYPSC provide real-time information on the status of all communications networks, including those that are IP-based.[3] Expanding or modifying outage reporting requirements to include interconnected IP services and broadband service providers, and making such available to states enhances the safety of end-users and is in the public interest.

Current Outage Reporting Limitations

Under current regulations states are limited to PSTN-based carriers providing critical outage information and do not have similar authority to acquire direct and readily available data from interconnected IP providers. While in New York we have had limited success obtaining such information on a voluntary basis, IP-based communication will soon emerge as the technology of choice to transmit voice and critical emergency information and,

---

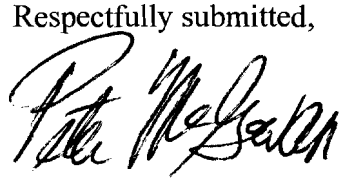
2 NYPSC letter comments dated March 4, 2010, filed in support of the Petition of the California Public Utilities Commission and the People of the State of California for Rulemaking on States' Access to the Network Outage Reporting System (NORS) Database and a Ruling Granting California Access to NORS, ET Docket No. 04-35.

3 It is clear that emerging next generation 911 (NG911) technology will soon replace existing legacy 911 systems at many PSAPs and it will be entirely IP-based in order to support its enhanced information capabilities. The transition to NG911 will take many years to accomplish and it is likely that some PSAPs may not be able to adopt the technology at all. Even when NG911 is implemented, critical information will traverse wireless, PSTN and the wired infrastructure of IP-based providers. It is critical that IP-based network status be readily available to state commissions to support emergency response activities.

therefore, the FCC should make outage reporting requirements mandatory. Additionally, any future classification of broadband service as a telecommunications service or otherwise should permit all appropriate federal, state and local authorities to receive outage information on IP-based networks.

Expansion of reporting requirement to critical IP-based services and providers, along with information sharing among state and federal agencies will ensure increased safety and consumer protections, as the technological evolution of interconnected communications networks continues.

Respectfully submitted,



Peter McGowan
General Counsel
Public Service Commission
State of New York
Three Empire State Plaza
Albany, NY 12223-1350